

**IN THE COURT OF MS. MEENU KAUSHIK: DISTRICT
JUDGE – 03: NEW DELHI DISTRICT: PATIALA HOUSE
COURTS : NEW DELHI**

Misc No. 997/22

CNR No. DLND010112182022



LIC Housing Finance Limited

Versus

Inderjeet Singh Hanspal

13.08.2026

ORDER

1. By way of the present order, I shall dispose of the application moved on behalf of the defendant under Section 5 of the Limitation Act read with Section 151 of the Code of Civil Procedure, seeking condonation of delay in filing the application under Order IX Rule 13 CPC for setting aside the final order and ex parte decree dated 31st January 2022.

2. Arguments on the application have already been heard.

3. Ld. counsel for the applicant submits that, by way of the application under Order IX Rule 13 CPC, the defendant seeks setting aside of the final order and ex parte decree dated 31st January 2022, whereby the plaintiff was held entitled to recover an amount of Rs. 34,62,725.93, along with interest at the rate of 9% per annum from 02.07.2014 till the date of realization of the said amount. It is further submitted that, by way of the present application, the defendant seeks condonation of delay of 324 days in filing the application under Order IX Rule 13 CPC. It is stated that the defendant was a decorated officer of the Indian Air Force

and served in the said capacity till 24.05.2024. During the period when the defendant was serving in the Indian Air Force, the plaintiff instituted the present suit for recovery. It is submitted that counsel for the defendant had appeared in the said suit in the year 2016 and had informed the defendant that the suit filed by the plaintiff had been dismissed for non-prosecution. Upon being informed about the dismissal of the suit, the defendant did not pursue or follow up with his counsel regarding any possibility of revival of the suit.

4. It is further submitted that, as the defendant was serving the country at various locations, he could not access the email sent by his counsel, whereby the counsel had attempted to inform him that the present suit had been revived by the plaintiff in the year 2017. It is stated that various other emails were also sent by the counsel seeking instructions from the defendant for pursuing and defending the suit. It is further submitted that, owing to the absence of instructions from the defendant, his counsel withdrew his Vakalatnama and stopped appearing in the suit. Thereafter, the suit proceeded ex parte and was ultimately decreed vide order dated 31.01.2022.

5. Ld. counsel submits that the defendant could not diligently pursue the present suit or provide instructions to his counsel after the year 2017 as he was serving in the Indian Air Force and was constantly being transferred from one location to another. It is further submitted that the defendant came to know about the disposal of the present suit only on 29.11.2022, when another officer, who was defending a similar suit, inquired from the defendant regarding the outcome of the present civil suit.

Thereafter, the defendant contacted his counsel, who informed him that, owing to the absence of instructions, he had stopped appearing in the suit. The defendant thereafter asked his counsel to make immediate inquiries, whereupon he came to know about the disposal of the suit. It is submitted that the delay in filing the application under Order IX Rule 13 CPC occurred solely on account of the aforesaid facts and circumstances and was neither intentional nor deliberate. It is further argued that, as per Section 10 of the Indian Soldiers Act, 1925, the Court may set aside any order or decree if it is satisfied that the soldier was sufficiently precluded from appearing and that it would be in the interest of justice to set aside such order or decree. Id. counsel further submits that no prejudice would be caused to the plaintiff in case the present application seeking condonation of delay in filing the application for setting aside the order/decreed dated 31.01.2022 is allowed. On the contrary, grave prejudice and injustice would be caused to the defendant if the present application is not allowed.

6. Per contra, Id. counsel for the plaintiff/non-applicant submits that the present application is wholly misconceived and is not maintainable. It is further submitted that the defendant has approached this Court with suppression of material facts. It is further submitted on behalf of the plaintiff/non-applicant that the defendant has failed to furnish any day-to-day or period-wise reasonable explanation for the delay sought to be condoned. It is stated that substantial periods have been left wholly unexplained and that the defendant has sought condonation of delay on the basis of broad, omnibus and self-serving assertions. It is submitted that the entire foundation of the present application rests upon the

plea that the defendant was serving in the Indian Air Force, was posted at different stations and remained occupied with his official duties, due to which he could not keep track of the proceedings in the present case. It is argued that official employment, transfers, administrative responsibilities or engagement in service duties do not grant a blanket exemption from monitoring pending civil litigation, maintaining contact with counsel or taking necessary steps to safeguard one's legal rights and interests.

7. It is further submitted that the defendant admittedly had engaged counsel and was aware of the pendency of the suit. It was, therefore, incumbent upon the defendant to remain vigilant and obtain necessary updates from his counsel with respect to the proceedings. It is further stated that the averment of the defendant that he did not see the emails sent by his counsel after restoration of the suit is vague, unsubstantiated and inherently improbable. No material has been placed on record to demonstrate that the defendant was genuinely incapacitated from checking or responding to the communications received from his counsel over such a prolonged period. It is further submitted that the defendant has failed to explain why no efforts were made by him to ascertain the status of the suit during the period from 2016 till 2022. It is argued that the defendant cannot derive any benefit merely by referring to his service history.

8. It is further submitted that reliance upon the Indian Soldiers (Litigation) Act, 1925 is misconceived and misplaced. The defendant has neither pleaded nor established the foundational facts necessary for invoking the said statute, nor demonstrated that he was serving under such special circumstances as legally

prevented him from appearing in the proceedings, instructing his counsel or taking recourse to law. It is further submitted that the plaintiff has already suffered serious prejudice on account of the conduct of the defendant. The plaintiff has been compelled to litigate for several years and to secure a decree after due process of law and is now being further delayed by the filing of the present baseless and meritless application. It is submitted that condonation of delay in the facts and circumstances of the present case would cause grave prejudice to the plaintiff and would defeat the very object and purpose of the law of limitation.

9. Submissions made on behalf of both the parties are taken into consideration. Record perused.

10. It is an admitted position on the part of the defendant that he was aware of the institution of the suit by the plaintiff against him. Counsel for the defendant had appeared in the said suit and had also informed the defendant by way of email regarding revival of the suit. The only explanation furnished by the defendant for his failure to pursue the matter is that he could not check the emails sent by his counsel as he was serving in the Indian Air Force, was posted at different places and was discharging his duties as an officer.

11. The explanation furnished by the defendant for not checking the emails sent by his counsel regarding revival of the suit is not found to be satisfactory or acceptable. The defendant has not furnished any explanation as to whether he was posted under any special circumstances or was subjected to any such special conditions by virtue of which he was prevented or

incapacitated from checking the emails sent by his counsel, giving necessary instructions to his counsel for pursuing the suit, or taking appropriate recourse in accordance with law. In the absence of any such explanation or material, mere posting at different places or engagement in official duties cannot, by itself, constitute sufficient cause for the prolonged inaction on the part of the defendant.

12. Since the reasons furnished for not filing the application under Order IX Rule 13 CPC within the prescribed period of limitation are not found to be satisfactory, the delay sought to be condoned cannot be allowed.

13. Accordingly, the present application seeking condonation of delay in filing the application under Order IX Rule 13 CPC for setting aside the order and ex parte decree dated 31.01.2022 is dismissed.

14. Consequently, the application under Order IX Rule 13 CPC also stands disposed of as not allowed.

15. File be consigned to the Record Room after necessary compliance.

***(Announced in the open Court
on 13th August, 2026)***

**(Meenu Kaushik)
DJ-03, New Delhi District
Patiala House Courts
New Delhi**